

# EXHIBIT A

STATE OF MICHIGAN

IN THE 14<sup>th</sup> CIRCUIT COURT FOR THE COUNTY OF MUSKEGON

NIGEL THOMAS,

Case no. 2017-002808-CL

Plaintiff,

v.

Timothy G. Hicks

Hon. P35198

WINGS TEN, INC dba  
BUFFALO WILD WING,

COMPLAINT

Defendant.

Joshua S. EldenBrady (P73207)  
Vincent E. Carlson and Associates, PLC.  
Attorney for the Plaintiff  
2320 Lake Ave  
North Muskegon, MI 49445  
231-726-4357

**COMPLAINT**

Plaintiff Nigel Thomas, through his attorney Joshua S. EldenBrady hereby states:

**Jurisdiction and Venue**

1. This is an action for violations of the Equal Employment Opportunities Act 42 U.S. Code § 2000e et seq and the Elliot Larson Civil Rights Act, MCL 37.2102 et seq..
2. The amount claimed in this case exceeds \$25,000.
3. Plaintiff is a citizen of the United States and the State of Michigan and resides in Muskegon County Michigan.
4. Defendant Wings Ten, INC corporation doing business in Muskegon County, Michigan.
5. Plaintiff is an *employee* as defined by the both acts.
6. Defendant is an *employer* as defined by both acts.
7. The events giving rise to this cause of action occurred within Muskegon County Michigan.

#### **Background Facts**

8. Plaintiff became employed by Defendant as a Line Cook on or about August 2011.
9. Plaintiff is a 42 year old African-American male.
10. In July 2015, Defendant employed new management.
11. Plaintiff was employed full time until August of 2015.
12. In August 2015 Plaintiff moved to 3 days a week due to being denied raises and management not scheduling his performance reviews.
13. In or about June of 2016, Plaintiff was accused of making white female servers uncomfortable, but no explanation of what behavior or actions made them uncomfortable.
14. On Thursday, July 14, 2016, Plaintiff was terminated from his employment with Defendant.
15. At the time, Plaintiff believed he was terminated for leaving a dirty workstation at the end of his shift as he had left his empty water bottle at his station.
16. Plaintiff found out upon receiving his termination letter that he was being accused of drinking on the job.
17. At no point did Plaintiff consume alcohol on the job while working for Defendant.

#### **COUNT I – DIFFERENTIAL TERMS OF EMPLOYMENT**

18. Plaintiff was repeatedly passed up for raises and had performance reviews skipped.
19. Similarly situated white employees received raises during that same time.
20. Plaintiff never received a negative performance review nor was there any other reason for the disparity in pay.
21. The only negative comment received by Plaintiff prior to his termination was that he was making white female servers uncomfortable. No explanation of specific behavior was ever cited.

#### **COUNT II – WRONGFUL TERMINATION**

22. Plaintiff was terminated on July 14, 2017.
23. Prior to his termination, Plaintiff was not suspended as required by company policy.

24. Prior to his termination no investigation was conducted as required by company policy.
25. A similarly situated white employee who was initially terminated for drinking was later given a management position with the company.
26. Plaintiff was never shown the surveillance video, nor was he given any opportunity to present an explanation of what occurred that day.
27. By terminating Plaintiff without cause and based on allegations on which similarly situated white employees received preferential treatment, Defendant violated both the Equal Employment Opportunities and the Elliot Larson Civil Rights Act.

**THEREFORE, PLAINTIFF REQUESTS** judgment against Defendant as follows:

**1. Legal relief**

- a. Compensatory damages in whatever amount he is found to be entitled.
- b. Punitive damages in whatever amount he is found to be entitled.
- c. An award of interests, costs, and reasonable attorney fees and expert witness fees.
- d. Whatever other legal relief appears appropriate at the time of final judgment.

**2. Equitable relief**

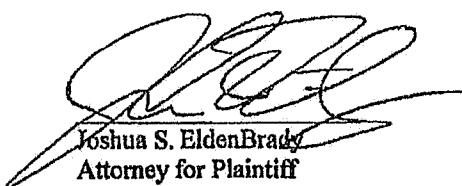
- a. An order reinstating Plaintiff to an appropriate position with Defendant.
- b. An injunction prohibiting any further acts of wrongdoing, discrimination, or retaliation.
- c. Whatever other equitable relief appears appropriate at the time of final judgment.

**Jury Demand**

Plaintiff, Nigel Thomas, demands a trial by jury.

Dated:

6-6-17



Joshua S. Elden Brady  
Attorney for Plaintiff

**Verified Statement**

I, Nigel Thomas, declare that this complaint has been examined by me and that its contents are true to the best of my knowledge, information, and belief, and that it is not being made for any improper purpose.

/s/ Nigel Thomas  
Nigel Thomas

Dated: 6/6/2017

May 25 17, 09:10a

B&amp;B Household

2317655826

p.6 Ex 1

EEOC Form 6 (3108)

CHARGE OF DISCRIMINATION		Charge Presented To: Agency(ies) Charge No(s):
<small>This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.</small>		<input type="checkbox"/> FEPA <input checked="" type="checkbox"/> EEOC <b>471-2016-03704</b>
<b>Michigan Department Of Civil Rights</b> <small>State or local Agency, if any</small>		
<b>Name (Indicate Mr., Ms., Mrs.)</b> <b>Mr. Nigel Thomas</b>		<b>Home Phone (Incl. Area Code)</b> <b>(231) 268-5480</b>
<b>Street Address</b> <b>2337 Dyson Street, Apt. B, Muskegon Heights, MI 49444</b>		<b>City, State and ZIP Code</b>
<b>Named Is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)</b>		
<b>Name</b> <b>BUFFALO WILD WINGS</b>		<b>No. Employees, Members</b> <b>15 - 100</b>
<b>Street Address</b> <b>5648 South Harvey, Muskegon, MI 49444</b>		<b>City, State and ZIP Code</b>
<b>DISCRIMINATION BASED ON (Check appropriate box(es).)</b> <input checked="" type="checkbox"/> RACE <input type="checkbox"/> COLOR <input type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input type="checkbox"/> NATIONAL ORIGIN <input type="checkbox"/> RETALIATION <input type="checkbox"/> AGE <input type="checkbox"/> DISABILITY <input type="checkbox"/> GENETIC INFORMATION <input type="checkbox"/> OTHER (Specify) _____		<b>DATE(S) DISCRIMINATION TOOK PLACE</b> <b>Earliest</b> <b>06-01-2015</b> <b>Latest</b> <b>07-14-2016</b> <input type="checkbox"/> CONTINUING ACTION
<b>THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s).)</b> <b>I began my employment with the above-named employer on or about August 18, 2011, and was last employed as a Cook/Prep Cook.</b>		
<b>Beginning in or around June 2015 and continuing until on or about July 14, 2016, I was paid less than similarly situated Caucasian employees. Beginning in or around June 2015 and continuing until on or about July 14, 2016, I was denied pay raises and performance reviews. Meanwhile, similarly situated Caucasian employees were granted pay raises and performance reviews. On or about July 14, 2016, I was discharged allegedly for misconduct.</b>		
<b>I believe I was denied equal wages, subjected to different terms and conditions of employment relating to pay raises and performance reviews, and was discharged due to my race (African American), in violation of Title VII of the Civil Rights Act of 1964, as amended.</b>		
<b>I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.</b>		<b>NOTARY - When necessary for State and Local Agency Requirements</b>
<b>I declare under penalty of perjury that the above is true and correct.</b>  <u>9-29-2016</u> <u>Nigel Thomas</u> <small>Date</small> <small>Charging Party Signature</small>		<b>I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.</b> <b>SIGNATURE OF COMPLAINANT</b>
<b>SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE</b> <small>(month, day, year)</small>		

Ex 2

EEOC Form 161 (11/18)

**U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION**

## **DISMISSAL AND NOTICE OF RIGHTS**

To: **Nigel Thomas**  
**2337 Dyson Street, Apt. B**  
**Muskegon Heights, MI 49444**

From: Detroit Field Office  
477 Michigan Avenue  
Room 865  
Detroit, MI 48226

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**On behalf of person(s) aggrieved whose identity is  
CONFIDENTIAL (29 CFR 51801.7(a))**

**EEOC Charge No.**

**EEOC Representative**

Telephone No.

471-2016-03704

**Colleen O'Brien,  
Investigator**

(313) 226-2361

**THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:**

- The facts alleged in the charge fall to state a claim under any of the statutes enforced by the EEOC.
- Your allegations did not involve a disability as defined by the Americans With Disabilities Act.
- The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.
- Your charge was not timely filed with EEOC; In other words, you waited too long after the date(s) of the alleged discrimination to file your charge.
- The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.
- The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.
- Other (briefly state)

**- NOTICE OF SUIT RIGHTS -**

**NOTICE OF CON RIGHTS**  
(See the additional information attached to this form.)

**Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age Discrimination in Employment Act:** This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit must be filed WITHIN 90 DAYS of your receipt of this notice; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

**Equal Pay Act (EPA):** EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.

On behalf of the Commission

Marcia D. Elyatt  
Michelle Eisele,  
District Director

03/10/2017  
(Date Mailed)

**Enclosures(s)**

cc: **Jean Lanfear  
Human Resources  
BUFFALO WILD WINGS  
13405 W Star Drive, Suite 2  
Shelby Township, MI 48315**

## PROOF OF SERVICE

SUMMONS AND COMPLAINT  
Case No. 17-002808-CL

**TO PROCESS SERVER:** You are to serve the summons and complaint not later than 91 days of expiration on the order for second summons. You must make and file your return with the court. service you must return this original and all copies to the court clerk.

2017-002808-CL  
CCR-ROS

## CERTIFICATE/AFFIDAVIT OF SERVICE/NONSERVICE

 OFFICER CERTIFICATE

I certify that I am a sheriff, deputy sheriff, bailiff, appointed court officer, or attorney for a party (MCR 2.104[A][2]), and that: (notarization not required)

OR

 AFFIDAVIT OF PROCESS SERVER

Being first duly sworn, I state that I am a legally competent adult who is not a party or an officer of a corporate party, and that: (notarization required)

 I served personally a copy of the summons and complaint, I served by registered or certified mail (copy of return receipt attached) a copy of the summons and complaint, together with

List all documents served with the Summons and Complaint

on the defendant(s):

Defendant's name	Complete address(es) of service	Day, date, time
WINGS TEN, INC. TO: KENT WARD (RES. AGENT)	13405 W. STAR DR. STE 2 SAKELBY TWP. MI. 48315	MON. 6-26-17 1:59 PM

 I have personally attempted to serve the summons and complaint, together with any attachments, on the following defendant(s) and have been unable to complete service.

Defendant's name	Complete address(es) of service	Day, date, time

I declare that the statements above are true to the best of my information, knowledge, and belief.

Service fee	Miles traveled	Mileage fee	Total fee
\$ 26.00	49	\$ 39.32	\$ 65.32

Signature

HOWARD HUGHES  
PROCESS SERVER

Name (type or print)

Subscribed and sworn to before me on 6/28/17, County, Michigan.  
DateMy commission expires: \_\_\_\_\_ Signature: Amanda   
Date Deputy court clerk/Notary public: Amanda KrasnickiNotary public, State of Michigan, County of MacombNotary Public - State of Michigan  
County of Macomb  
My Comm Expires July 08, 2023

## ACKNOWLEDGMENT OF SERVICE

I acknowledge that I have received service of the summons and complaint, together with

on Mon 6-26-17 1:59 PM Day, date, time  
Attachments

Signature

on behalf of \_\_\_\_\_